School records and parents' rights

A child's school records contain important information. These files are used by teachers and other school officials, and they influence decisions made about the student. Parents of children with disabilities are an essential part of their child's education planning team and it's important for them to review and understand the information in these records. Parents also need to review their child's records for accuracy.

Parents' rights regarding school records are spelled out in federal and state laws, specifically in the Family Educational Rights and Privacy Act (FERPA)[1], the Minnesota Government Data Practices Act[2], and the Individuals with Disabilities Education Act (IDEA) Regulations 300.610 – 300.627[3]. Parents have these rights until the child turns 18 (and beyond if the parent has guardianship) or attends a postsecondary school.

Schools must notify parents annually of FERPA rights

The school may use several different methods to inform parents of their rights. The methods include publishing a notice in a student handbook, in a specific notice to parents, in a local newspaper, or in a central location in the school. **The parents' basic rights include:**

- The right to see their child's educational records
- The right to ask that records be changed if not accurate
- The right to control disclosing information to others from the records in some situations
- The right to file a complaint concerning possible violations

Parents have the right to see their child's school records

Parents (including a noncustodial parent, a guardian, or an individual acting as a parent) may see all of their child's school records unless the school has been given a divorce decree or other legal document that specifically revokes these rights. These include any records used by the school for the identification, evaluation, educational planning, and placement of their child. If requested, the school district must give parents the opportunity to look at all of their child's educational records including: report cards, transcripts, disciplinary records, contact and family information, cumulative files, and special education records.

The rights regarding school records will transfer to students at age 18 (unless the parent's guardianship is established). Parents, however, may see school records as long as they claim their child as a dependent on their income tax return. Additionally, parents who no longer claim their child as a dependent for income tax purposes may see school records if there is a health or safety emergency.

[1] For more information on FERPA see https://studentprivacy.ed.gov
[2] For more information on the Act see https://www.mcit.org/resource/minnesota-government-data-practices-act-an-introduction
[3] For more information on IDEA see https://sites.ed.gov/idea/statuteregulations

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PACER Tip Sheet

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When can parents see and obtain copies of their child's records?

Parents can request to see copies of their child's educational records at any time. One way to say this is: "I request to see all of my child's records from all of his or her files." In Minnesota, the school must comply immediately or within ten business days if immediate compliance is not possible. The records must be available to parents before any meeting or hearing regarding identification, evaluation, or placement of their child.

Parents may request that the school provide copies of the records. The school may charge parents for the actual cost of making the copies unless the cost prevents the parents from obtaining copies. The school may not charge to search for or retrieve a student's educational records.

Can a school refuse to show parents any records?

In most cases, no. However, the school has the right to refuse to show parents the personal notes a teacher or a counselor made for his or her own use if those notes are not kept in the child's file. The school can also refuse to show parents personnel records of school employees or the records of school security police if kept separate from school records and used only by local law enforcement.

What about video records?

A video of a student is an educational record when it directly relates to a student and is kept by a school. For example, when a school surveillance video showing two students fighting is used as part of a disciplinary action, it is directly related to the two students fighting. If a parent of one of the students requests to see the video, the school must try to separate the portions directly related to that student. If the school is unable to do that without destroying the meaning of the video record, then the school must allow the parent to see the entire video.

Can parents have someone explain the records?

Yes. The school must respond to a reasonable request to have the records explained by a qualified staff person. Parents may also have their own representative inspect and review the records.

Can parents seek to change their child's school records?

Yes. If parents believe that the records contain misleading or inaccurate information or violate their child's privacy or other rights, they may request that the information be removed or changed. Parents should make the request in writing to the school principal and include their reasons for the changes.

The school must decide, within a reasonable period, whether to change the record. If the parents' request is denied, the school must inform the parents of their right to a hearing and the procedure for requesting a hearing.

If parents request a hearing in writing, an impartial hearing officer will make a decision after considering the evidence on both sides. If the hearing officer decides in favor of the parents, the school will change the record and inform the parents in writing that it has done so. If the hearing officer decides that the disputed information is not inaccurate, misleading, or otherwise in violation of the child's rights, it will remain in the records. Parents, however, may place a written statement in the records to explain their reason for disagreement. This statement will then become a part of the child's records. If the disputed part of the record is released to anyone, the parents' statement must also be included.

Who can see a child's school records in addition to parents?

Parents and school officials with legitimate educational interests may see a child's school records. In most cases, when any additional person or agency makes a request to see a child's school records, the parents must be contacted for consent and schools must keep a record of each request for and disclosure of a student's records. They must be informed about which records have been requested, by whom, and for what reason.

Local law enforcement officials who serve as a school's law enforcement unit may be considered "school officials" under certain conditions.[4]

In addition,

- The school may send records to another public school district in which the student seeks to enroll
- Directory information may be disclosed without consent if the school has given public notice of what is considered directory information. Parents may opt out of having their child's information included in a directory.
- Schools may disclose educational records to officials in law enforcement as permitted by state law. Law enforcement records are not subject to FERPA privacy protections. However, education records disclosed to law enforcement do remain protected.[5]
- Schools are also allowed to disclose records to appropriate individuals without a parent's consent if there is an emergency concerning a child's health or safety. The school must record the reason for its decision.
- Student data may be shared with the state education agency and the local school district to evaluate the effectiveness of public education programs. Reasonable methods must be used to protect a student's privacy.

What happens to records after the child no longer receives special education services?

The school must inform parents when personally identifiable information about their child is no longer needed to provide education services. Upon written request by the parents, the information must be destroyed. However, schools may maintain a permanent record of the student's name, address, telephone number, grades, attendance, classes attended, grade level completed, and year completed.

If parents have a complaint, is there an appeal beyond the school?

Yes. If the school refuses to let a parent see or seek changes to school records, or if the school releases information from the student's records without parental consent, parents may file a written complaint. To request the complaint form, call (202) 260-3887. Send complaints to:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Ave. SW.
Washington, DC 20202-5920

The complaint letter should contain specific information about the violation, including names and dates, reasons given by the school as denial of the parent request, and copies of any correspondence relating to the matter. Family Educational Rights and Privacy Act (FERPA) staff will contact the school and investigate the complaint. If the school is found to be in violation, it will be required to correct the violation within a specific time.

[4] Frequently Asked Questions, https://studentprivacy.ed.gov/frequently-asked-questions
[5] For more detailed information see https://mn.gov/admin/data-practices/data/types/lawenforcement/law-enforcement-schools

Parents of children with disabilities **in Minnesota** may wish to contact PACER Center for help in notifying their district's special education director. Parents may also file a complaint with the state of Minnesota:

Division of Compliance and Assistance
Minnesota Department of Education
400 NE Stinson Blvd.
Minneapolis, MN 55413-4266
(651) 582-8689

Minnesota state law, including Chapter 13 of the Minnesota Government Data Practices Act, defines public and private data. The law requires the agencies that collect and disseminate such data to meet certain requirements and develop procedures to assure confidentiality. It also outlines penalties for violating the data privacy. For further information, contact:

Data Practices Office
Minnesota Department of Administration
200 Administration Building
50 Sherburne Ave.
St. Paul, MN 55155
(651) 296-6733
info.dpo@state.mn.us